



Security Council

Distr.: General
12 March 2010
English
Original: French

Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan

Note verbale dated 5 March 2010 from the Permanent Mission of France to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of France to the United Nations presents its compliments to the Office of the Chairman of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan and has the honour to transmit a report on the implementation by France of the measures approved by resolutions 1556 (2004) and 1591 (2005) (see annex).



Annex to the note verbale dated 5 March 2010 from the Permanent Mission of France to the United Nations addressed to the Chairman of the Committee

Report of France to the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan on the implementation of the measures approved by resolutions 1591 (2005) and 1556 (2004)

The Security Council, in paragraph 5 of resolution 1891 (2009) of 13 October 2009, encourages all States, in particular those in the region, to report to the Committee on the actions they have taken to implement the measures imposed by resolutions 1591 (2005) and 1556 (2004).

In accordance with Security Council resolution 1891 (2009), France wishes to transmit to the Committee the following information concerning the implementation of the restrictive measures set forth in paragraphs 3 (d), 3 (e) and 7 of resolution 1591 (2005) and paragraphs 7 and 8 of resolution 1556 (2004).

I. Measures adopted by the European Union

1. The Council of the European Union decided to impose an arms embargo on the Sudan as of 9 January 2004 by adopting common position 2004/31.

2. On 30 May 2005, pursuant to Security Council resolution 1591 (2005), the Council of the European Union adopted common position 2005/411/CFSP concerning restrictive measures against the Sudan. This document transposes to the European Union the provisions of resolution 1591 (2005) and provides for:

- An embargo on arms and related materiel and on related services or financing intended for the Sudan, in accordance with common position 2004/31 of 9 January 2004;
- Measures restricting movement in the territory of States members of the European Union;
- Measures for the freezing of financial assets.

On 25 April 2006, the Security Council adopted resolution 1672 (2006) in which it decided that all States would implement the measures specified in paragraph 3 of resolution 1591 (2005) with respect to four designated individuals. Pursuant to resolution 1672 (2006), the Council of the European Union adopted decision 2006/386/CFSP of 1 June 2006 (designated individuals) amending common position 2005/411/CFSP (list in the annex).

3. In respect of certain provisions of the common position falling within the competence of the European Community, the Council of the European Union adopted:

- With regard to the prohibition of financing and financial assistance linked with the implementation of the arms embargo against the Sudan: regulation (EC) No. 838/2005 of 30 May 2005 (amending regulation 131/2004 of 26 January 2004 implementing common position 2004/31/CFSP);

- With regard to measures for the freezing of financial assets: regulation (EC) No. 1184/2005 of 1 June 2006 as amended by regulation (EC) No. 760/2006 of 18 May 2006 and regulation (EC) No. 970/2007 of 17 August 2007 (amendment to the list of designated individuals, taking into account the latest update of the list by the Security Council Committee established pursuant to resolution 1591 (2005), on 7 August 2007).

Community regulations are directly and legally applicable as soon as they have been published in the *Official Journal of the European Union*. Accordingly, no action needs to be taken for their issuance at the national level.

II. National implementing provisions

1. Arms embargo

1. France is a party to all the international instruments for cooperation with regard to arms exports. In particular, it bases its export decisions on criteria determined in the context of international treaties, conventions, instruments or forums to which it has acceded, in particular the European Code of Conduct on Arms Exports adopted by the Council of the European Union in 1998. France implements the international embargoes imposed by the United Nations Security Council and by the European Union against certain countries.

Specifically, the arms embargo imposed by the European Union against the Sudan is implemented by the member States of the European Union on the basis of common position 2005/411/CFSP of the Council of the European Union. Council of the European Union regulation (EC) No. 838/2005 also established a statutory basis for the systematic prohibition of the financing or the provision of financial assistance related to the prohibition of exports from the member States of the European Union to the Sudan of the items envisaged in paragraphs 7 and 8 of Security Council resolution 1556 (2004) and paragraph 7 of resolution 1591 (2005).

2. The export from France of war materiel is strictly controlled on the basis of, *inter alia*, article L 2335-3 of the Defence Code (an instrument having the force of law) which provides that the unauthorized export, under any customs regime, of war materiel or related items is prohibited. The primary applicable regulatory text is decree No. 95-589 of 6 May 1995. The law provides for criminal penalties in the event of failure to comply with the legislative and regulatory provisions concerning exports of war materiel and related items (articles L 2339-2 *et seq.* of the Defence Code).

Export licences may be issued as an exception to that ban only on completion of an inter-ministerial review procedure. Under that procedure, the inter-ministerial committee for the review of exports of war materiel, on the basis of Security Council resolutions 1556 (2004) and 1591 (2005), European Union common position 2005/411/CFSP and regulation (EC) No. 838/2005, now rejects all applications for approval of negotiations for the sale of, or the sale of, war material to the Sudan.

Furthermore, a notice published in the *Official Journal* of 30 July 2009, intended for exporters of war materiel and related items, specifies that exceptions to the prior approval and export licensing requirements prescribed in article 13 of the decree of 2 October 1992 on the procedure for the import, export and transfer of war material, arms, ammunition and related items are suspended in view of the

international commitments undertaken by France in respect of, among other countries, the Sudan.

The provision of assistance or advice by French nationals in relation to the designated items is also prohibited.

2. Freezing of financial assets and economic resources and prohibition of the provision of funds

Council of the European Union regulation (EC) No. 1184/2005 established a statutory basis for the implementation of paragraph 3 (e) of Security Council resolution 1591 (2005) and provides for the freezing of the financial assets of individuals and entities designated by the sanctions Committee and a prohibition on making funds, financial assets or economic resources available to these individuals.

On 25 April 2006, the Security Council adopted resolution 1672 (2006) in which it decided to implement sanctions against four Sudanese individuals. By regulation (EC) No. 760/2006 of 18 May 2006, these individuals were added to the sanctions list included in regulation (EC) No. 1184/2005.

These provisions are taken into account by banks and financial institutions in France, which are notified thereof by, in particular, the Ministry of the Economy, Industry and Employment.

3. Prohibitions on access to the territory

Visa applications by individuals designated by the Security Council Committee established pursuant to resolution 1591 (2005) are denied by the French authorities by virtue of their inclusion in a list of persons ineligible for French visas. These provisions apply, in particular, to the individuals designated by Security Council resolution 1672 (2006).

France also denies issuance on the basis of article 5 (e) of the Convention implementing the Schengen Agreement and in the context of common position 2005/411/CFSP of the Council of the European Union. This common position provides for the adoption of measures restricting access to the territory of the member States of the European Union pursuant to paragraph 3 (d) of Security Council resolution 1591 (2005). It was amended by decision No. 2006/386/CFSP of 1 June 2006 so as to prohibit access to the territory of the member States of the European Union by the four individuals designated in Security Council resolution 1672 (2006).

Visa denials may therefore be based solely on the relevant resolutions of the Security Council, specifically resolutions 1591 (2005) (cf. paragraph 3 (d)) and 1672 (2006). The individuals included in the consolidated list of the Security Council Committee established pursuant to resolution 1591 (2005) are included in the central register of the world visa network, a register provided for in article 1 of the decree of 22 August 2001. French diplomatic and consular offices abroad which are responsible for processing visa applications have been instructed not to issue visas to the persons included in this register.